

The Supreme Court of Ohio

COMMISSION ON SPECIALIZED DOCKETS
65 SOUTH FRONT STREET, COLUMBUS, OH 43215-3431

April 10, 2017

SUBSTANCE MONITORING – CERTIFICATION RESOURCE

A. CERTIFICATION REQUIREMENTS:

Standard 8. Substance Monitoring.

A specialized docket shall monitor a specialized docket participant's substance use by random, frequent, and observed alcohol and other drug testing protocols which include all of the following:

- (A) Written policies and procedures for sample collection, sample analysis, and result reporting. The testing policies and procedures shall address elements that contribute to the reliability and validity of the testing process.
- (B) Individualized drug and alcohol testing plans. All testing shall be random, frequent, and observed.
- (C) Clearly established plans for addressing a participant who tests positive at intake or who relapses. The plans shall include treatment guidelines and sanctions, when appropriate, that are enforced and reinforced by the specialized docket judge.
- (D) Immediate notification of the court when the participant tests positive, fails to submit to testing, submits an adulterated sample or the sample of another individual, or dilutes the sample. Failure to submit to testing, submitting an adulterated sample or the sample of another individual, or diluting the sample shall be treated as positive tests and immediately sanctioned.
- (E) Testing sufficient to include the participant's primary substance of dependence, as well as a sufficient range of other common substances.

B. CERTIFICATION GUIDANCE:

All participants in a specialized docket must undergo random, frequent and observed drug testing throughout their entire enrollment in the docket.

As a general rule, the specialized dockets section has recommended conducting drug testing a minimum of twice a week during at least the initial phase of the docket for those participants diagnosed with a substance use disorder. Frequency of drug testing should also take into account the testing methods used and how long the primary substance of use can be detected using those methods. Participants that are not diagnosed with a substance use disorder and do not have a history of substance use must still undergo random and observed drug testing, although a frequency of less than twice a week will be considered.

While this describes our minimum expectations for certification, courts are encouraged to comply with the Adult Drug Court Best Practice Standards, Juvenile Drug Treatment Court Guidelines, or other formal direction issued by the national association(s) supporting their specific dockets.

C. NATIONAL DEFINITIONS¹:

Random Testing

The schedule of drug and alcohol testing is random and unpredictable. The probability of being tested on weekends and holidays is the same as on other days. Participants are required to deliver a test specimen as soon as practicable after being notified that a test has been scheduled. Urine specimens are delivered no more than eight hours after being notified that a urine test has been scheduled. For tests with short detection windows, such as oral fluid tests, specimens are delivered no more than four hours after being notified that a test was scheduled.

Random testing means the odds of being tested are the same on any given day of the week. Participants should be required to deliver a urine specimen no more than eight hours after being notified. This can be achieved by requiring participants to call a designated number each morning, and using a computerized process to randomly select the required number of dates across the course of a month. For example, if participants are tested a minimum of 2 days per week, the random process should select 9 -11 days over the course of a month for testing.

Frequent Testing

Drug and alcohol testing is performed frequently enough to ensure substance use is detected quickly and reliably. Urine testing is performed at least twice per week until participants are in the last phase of the program and preparing for graduation. Tests that measure substance use over extended periods of time, such as ankle monitors, are applied for at least ninety consecutive days followed by urine or other intermittent testing methods. Tests that have short detection windows, such as breathalyzers or oral fluid tests, are administered when recent substance use is suspected or when substance use is more likely to occur, such as during weekends or holidays.

Witnessed Collection

Collection of test specimens is witnessed directly by a staff person who has been trained to prevent tampering and substitution of fraudulent specimens. Barring exigent circumstances, participants are not permitted to undergo independent drug or alcohol testing in lieu of being tested by trained personnel assigned to or authorized by the Drug Court.

These standards are supported by research for practices within juvenile drug court programs as well.

D. NATIONAL BEST PRACTICES:

Adult Drug Court Best Practice Standards – Volume I

<http://www.nadcp.org/sites/default/files/nadcp/AdultDrugCourtBestPracticeStandards.pdf>

Adult Drug Court Best Practice Standards – Volume II

http://www.ndcrc.org/sites/default/files/adult_drug_court_best_practice_standards_volume_ii.pdf

Juvenile Drug Treatment Court Guidelines

<https://www.ojjdp.gov/juvenile-drug-treatment-court-guidelines.html>

¹ Adult Drug Court Best Practice Standards Vol II, Standard VII